

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEADAWN FERGUSON,

Plaintiff,

v.

Civil Action No. 14-cv-6807

UNITED STATES OF AMERICA;
CBP/ICE AGENT LAMANSKI;
CBP/ICE AGENT TANDARIC;
CBP/ICE AGENT REYNOLDS;
CBP/ICE AGENT DOES 1-5;
FAJ K. GHIMIRE, M.D.;
DEREK L. ISENBERG, M.D.;
MAURA E. SAMMON, M.D.;
NURSE TARA CHOWDHURY;
NURSE STACEY RUTLAND;
NURSE NATALIE TRABOSCIA;
MEDICAL PROVIDER AND HOSPITAL
STAFF DOES 6-10;
MERCY FITZGERALD HOSPITAL; and
MERCY HEALTH SYSTEM

Defendants.

**FEDERAL DEFENDANTS' UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO
ANSWER OR OTHERWISE PLEAD, AND MEMORANDUM OF LAW IN SUPPORT**

Plaintiff filed this complaint against the United States of America, three Customs and Border Patrol ("CBP") agents, and other non-federal defendants. Plaintiff sues CBP Agents Lamanski, Tandaric, and Reynolds in their individual capacities.¹ The U.S. Attorney's Office accepted service on behalf of the United States only on December 8, 2014. As of this filing, the individual federal defendants have not yet been served or accepted service.

¹ Although this motion is being filed on behalf of the federal defendants, the undersigned Assistant United States Attorney possesses limited authority to represent the individuals only for the purpose of filing this motion. No defenses, including but not limited to, lack of proper service, lack of subject matter jurisdiction and lack of personal jurisdiction are waived by filing this motion.

The individual federal defendants are federal employees, and the conduct complained of appears to have occurred while the employees were acting within the scope of their employment. When a federal employee is named as a defendant in his or her individual capacity, the individual must request representation from the Department of Justice pursuant to 28 C.F.R. § 50.15. The Department of Justice reviewed the representation requests for CPB Agents Lamanski, Tandaric, and Reynolds, and granted approval on January 23, 2015. Our office has now reached out to the three officers to determine if they would like the U.S. Attorney's office to represent them, or if they would prefer to retain their own private counsel. Unless and until they agree to representation by the U.S. Attorney's Office, we are not able to meet with the individual defendants to discuss the case, prepare a defense, and respond to the complaint. The federal defendants therefore request a sixty day extension of time in which to respond to plaintiff's complaint, until April 10, 2015. Granting the request will not prejudice plaintiff or cause undue delay.

Federal Rule of Civil Procedure 6(b) permits a reasonable extension of time to be granted upon good cause shown if the request is filed before the original time period expires. The U.S. Attorney's Office accepted service of the complaint on December 8, 2014, making February 9, 2015 the answer deadline for the United States, but not the individual federal defendants.² In order to preserve the Court's and the parties' time and resources, and to avoid the filing of piecemeal responses, it would make sense for one deadline to govern the response of all federal


² As noted above, the individual federal defendants have not yet accepted service, thus their responses are not due at this time. Plaintiff's counsel and undersigned counsel have discussed service of process on the individual federal defendants. To the extent that any individual federal defendant accepts representation by the U.S. Attorney's office, undersigned counsel intends to recommend that he or she accept service of the complaint.

defendants. In addition, plaintiff's counsel has advised that plaintiff may seek to name additional individual defendants. Depending on the timing and success of plaintiff's efforts, it may be necessary to seek a further extension of time so as to allow for a uniform response date for all federal defendants. Thus, this request is timely filed and good cause exists for the granting of this motion, as discussed above.

WHEREFORE, the federal defendants respectfully request that this Court grant them until April 10, 2015 to respond to plaintiff's complaint.

Respectfully submitted,

ZANE DAVID MEMEGER
United States Attorney



SUSAN R. BECKER
Assistant United States Attorney

Dated: February 9, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing motion for extension of time to answer, which was electronically filed through the Court's CM/ECF system, to be served by first class mail, postage prepaid, upon the following:

Jonathan H. Feinberg, Esquire
Kairys, Rudovsky, Messing & Feinberg
The Cast Iron Building
718 Arch Street, Suite 501 South
Philadelphia, PA 19106

Jennie Santos-Bourne, Esquire
Americans for Immigrant Justice
3000 Biscayne Blvd., Suite 400
Miami, FL 33137



SUSAN R. BECKER
Assistant United States Attorney

Dated: February 9, 2015

CERTIFICATE OF NON-OPPOSITION PURSUANT TO LOCAL RULE 7.1(b)

I, undersigned counsel, hereby certify that I spoke with opposing counsel regarding the relief requested in this motion. Opposing counsel advised me that he does not oppose the relief requested in this motion.



SUSAN R. BECKER

Assistant United States Attorney

Dated: February 9, 2015